

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT COURT OF NEW YORK

JEFFREY D. REYNOLDS, on behalf of himself and
all others similarly situated,,

Plaintiff,

-against-

XEROX EDUCATION SERVICES, LLC, s/h/i as
XEROX EDUCATION SERVICES, INC., and
WELLS FARGO BANK, N.A.,,

Defendants.

13 cv 1003 (HB)

**DECLARATION OF
JAMIE BROEDEL**

JAMIE BROEDEL declares the following to be true under the penalty of perjury:

1. I am a Senior Research and Legal Support Specialist for the Financial Services Group of defendant Xerox Education Services, LLC, sued herein as Xerox Education Services, Inc. ("XES"). I am making this Declaration in support of XES's motion to dismiss and in reply to the declaration of Plaintiff's counsel, I. Steven Rabin, Esq., and Plaintiff's Memorandum of Law in Opposition to Defendants' Motion to Dismiss or Alternatively Transfer ("Opp. Mem.").

2. My duties at XES include the following: records custodian; researching and responding to executive-level inquiries and inquiries of a legal nature; gathering confirming and reviewing account balance and borrower histories, as well as the present status and validity of the loan(s); and assisting in the resolution of customer concerns.

3. I have been employed at XES's facility in Utica, New York, since January 1998. At the time I joined, the entity which is now XES was called AFSA Data Corporation.

4. XES, which does business as ACS Education Services, is wholly owned by Xerox Business Services, LLC ("XBS"), which was formerly known as Affiliated Computer Services, Inc. ("ACS"). Although XBS (formerly ACS) itself is headquartered in Dallas, Texas, that is not the locus of XES's actual operations.

5. XES conducts student loan servicing operations from its Utica facility, employs more than 200 people, and does not have any facilities or offices in New York, Bronx, Westchester, Rockland, Putnam, Orange, Dutchess, or Sullivan Counties, which I understand are the counties constituting the Southern District of New York.

6. I have reviewed the allegations of the Class Action Complaint ("Complaint") in detail. Based on my own personal knowledge as well as records kept in the regular course of XES's business, I can state with confidence that the XES employees who were responsible for addressing the substance of Plaintiff's dispute, including Jason West, the Customer Service Supervisor who wrote the letter that Plaintiff attached as Exhibit E to the Complaint, as well as XES's Director of Operations, Manager of Customer Support and several other Customer Service Representatives, were employed at XES's Utica facility during the relevant time and are employed there currently. The Utica facility was responsible for correspondence with Plaintiff, including the correspondence that Plaintiff attached as exhibits to the Complaint.

7. Plaintiff alleges that XES "employs a sophisticated computer system or systems to automate loan amortization and application of payments." Complaint, ¶ 25. The computer systems which are involved in the servicing of Plaintiff's loan are available in the Utica facility. Plaintiff then alleges, falsely, that "[t]his system, among other things, credits payments to student loans in a manner that keeps borrowers in debt to maximize the amount of interest paid to the

lender over the life of the loans." *Id.* Given Plaintiff's allegations, that system itself is key evidence necessary to refute Plaintiff's allegations about it, but it cannot be transported to a court. As noted, it is available in Utica and, were this case to go to trial, the jury could see and experience for itself the operation and workings of the system.

8. Unless Plaintiff on his own contacted co-defendant Wells Fargo Bank, N.A. ("Wells Fargo"), the holder of his loan, Wells Fargo would have no dealings with him in the regular course of business given the agreements between Wells Fargo and XES requiring the latter to service Plaintiff's loan (among many others) and to communicate with him concerning his questions, problems, concerns, *etc.*

Executed this ~~7th~~ day of July, 2013, in Utica, New York.


Jamie Broedel